

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

**TRACY E. WADE, Administratrix of the
Estate of RICHARD BRIAN WADE,**

Plaintiff,

v.

**Civil Action No. 3:12-cv-608
Robert C. Chambers, Judge**

UNITED STATES OF AMERICA.

Defendant.

**PLAINTIFF'S MOTION TO EXTEND TIME TO FILE MOTION FOR NEW TRIAL OR
MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59**

COMES NOW the Plaintiff, by and through counsel Matthew C. Lindsay, M.D., J.D. and the law firm of Tabor Lindsay & Associates and moves this honorable court to extend the time frame in which plaintiff is permitted to file a motion for new trial or a motion to alter or amend judgment pursuant to Rule 59 of the Federal Rules of Civil Procedure.

Rule 59 specifies that a motion for a new trial or to alter/amend judgment must be filed within twenty (28) days from the entry of judgment. The Court entered its *Memorandum and Opinion and Order* granting Judgment in favor of defendant (Doc. 66) on February 20, 2014, thus making the deadline for a motion under Rule 59, March 20, 2014. Although plaintiff made efforts to contact the court reporter shortly after entry of Judgment, she was on vacation and could not be reached. Plaintiff was first able to speak with her on March 4, 2014, and plaintiff was informed that it would be approximately two (2) weeks before the trial transcript would be available. Two weeks from March 4 is March 18 - just two days before the time limit imposed by Rule 59. Furthermore, counsel for plaintiff is schedule to begin trial in the Circuit Court of

Kanawha County on March 17, 2014.

Therefore, in order to have adequate time to review the trial transcript and make a determination as to whether plaintiff will file a post trial motion according to Rule 59, plaintiff requests that the Court grant a two (2) week extension in order to file post judgment motions. Plaintiff would then be required to file said motion on or before April 3, 2014.

**TRACY E. WADE, Administratrix
of the Estate of RICHARD BRIAN WADE,
By Counsel**

s/ Matthew C. Lindsay, J.D., M.D.
**Richard D. Lindsay, M.D., J.D.
W.Va. State Bar # 2216
Matthew C. Lindsay, M.D., J.D.
W. Va. State Bar # 7896
Tabor Lindsay & Associates
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Charleston, WV 25325
304/344-5155**

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CERTIFICATE OF SERVICE

I, Matthew C. Lindsay, J.D., M.D., do hereby certify that I electronically filed the “**PLAINTIFF’S MOTION TO EXTEND TIME TO FILE MOTION FOR NEW TRIAL OR MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59**” with the Court using the CM/ECF system, and that a Notice of Electronic Filing of this document will be electronically served by the Clerk of the Court upon Fred B. Westfall, Jr., Esquire. I further certify that true and exact copies of this document have been served upon counsel of record this 4th day of March, 2013, by depositing the same in the regular course of the United States mail, postage prepaid:

Fred B. Westfall, Jr., Esquire
Assistant United States Attorney
Attorney for United States
Post Office Box 1713
Charleston, WV 25326

s/ Matthew C. Lindsay, M.D., J.D.
Matthew C. Lindsay, M.D., J.D.